

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION OF THE:

CHULA VISTA PEAKER GENERATING  
STATION BY RAMCO, INC.

APPLICANT.

DOCKET No. 01-EP-3  
APPLICATION COMPLETED  
MAY 21, 2001

## FINAL DECISION

On June 13, 2001, the Energy Commission approved the Application for Certification for the Chula Vista Peaker Generating Station proposed by RAMCO, Inc. under the limitations presented as conditions contained in this Decision, the Staff Assessment and Staff Supplemental Assessment, which are incorporated herein by reference. The proposed project was the subject of a Committee hearing and subsequent analysis by the Energy Commission staff as well as two hearings before the Energy Commission. The proposal meets criteria developed by Energy Commission staff to implement the Governor's Executive Orders expediting the permit process for peaking and renewable energy generating plants. This Decision has been completed in an expedited timeframe as called out in the Governor's Executive Orders described below.

### Executive Orders

On January 17, 2001, the Governor proclaimed a State of Emergency due to constraints on electricity supplies in California. As a result, the Governor issued Executive Orders D-22-01, D-24-01, D-25-01, D-26-01, and D-28-01 to expedite the permitting of peaking and renewable power plants that can be on line by September 30, 2001, and provide power to California. Emergency projects are exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080(b)(4). Since the Governor has declared a state of emergency, the Energy Commission may authorize the construction and use of generating facilities under terms and conditions designed to protect the public interest. (Public Resources Code section 25705.)

## Project Description

Applicant RAMCO, Inc. ("Applicant") proposes to construct a 62.4 megawatt (MW) natural-gas fired simple-cycle peaking facility ("the project") consisting of one pair of Pratt & Whitney (twin pack) Model FT4C-3F gas turbines and associated equipment at 3497 Main Street, Chula Vista, California. Applicant will locate the project adjacent to Applicant's newly constructed similar simple-cycle natural gas 44 MW facility approved by the City of Chula Vista last year. The project will require no new off-site linear facilities. The project will connect to San Diego Gas and Electric's ("SDG&E") electricity transmission system through the existing 69 kV line along the eastern edge of the site. Natural gas will be delivered via an existing 8-inch SDG&E gas line to the project that can accommodate the project and the adjacent facility.

The project is expected to begin commercial operation by September 30, 2001. While rated at 62.4 MW by the Independent System Operator ("ISO"), the project will operate in two phases. During the initial operating phase, the project will be equipped with dry low Nitrogen Oxides ("NOx") burners ("DLN") which will limit the project's output to 58 MW due to low combustor temperature limitations and the absence of Selective Catalytic Reduction ("SCR"). During phase one, emissions of NOx will be 25 parts per million ("ppm"). Phase two will begin with the installation of SCR and an Oxidation catalyst which will not be available to Applicant until 2002. By June 1, 2002, the SCR and Oxidation catalyst will be installed and the project's capacity will increase to 62.4 MW. With the installation of the SCR, NOx emissions will be reduced to 5 ppm.

Applicant will obtain an Authority to Construct ("ACT") permit from the San Diego Air Pollution Control District ("Air District"). The original application was filed on March 7, 2001, and refiled with the Air District on May 14, 2001. The required 30-day public notice period expired May 30, 2001 under the expedited review process established by the Governor's executive orders.

In order to qualify for the Energy Commission's expedited review, the project must begin commercial operation by September 30, 2001. Project construction will take approximately two to three months to complete and will begin upon Commission approval of the application and receipt of an ATC permit from the Air District.

## Public Hearing

On May 29, 2001, Robert A. Laurie, the Commissioner designated to conduct proceedings on this proposal, held a public site visit and informational hearing in Chula Vista to discuss the project with governmental agencies, community organizations, and members of the public. At the hearing, the Applicant described the project and Energy Commission staff explained the Energy Commission's expedited review process. Local residents and other members of the public made comments and had the opportunity to ask questions about the project. See Public Comment section.

## Issues of Concern

The Energy Commission Staff Assessment was received into the record on June 5, 2001. The following issues were identified at the hearing and during the review and consideration period that followed.

### Air Quality

The project will be constructed and then operated in two phases. The first phase of operations will include operation using dry low-NOx technology. This will allow the project to operate during the summer of 2001 although it won't be available to the grid until the end of September 2001. The second phase is expected to commence upon installation of SCR and an Oxidation catalyst. The uncontrolled NOx emissions in the first phase are expected to be at or below 25 ppm. SCR and an Oxidation Catalyst will reduce NOx and CO emissions to meet or exceed the Air District rules for best available control technology (BACT) for prime power simple cycle units (5ppm for NOx and 6 ppm for CO). The BACT must be in place no later than June 1, 2002.

Total annual NOx emissions from the project and the adjacent facility will be less than 50 tons per year. The project will be operated in conjunction with the existing adjacent facility which is permitted to operate as a minor pollutant source with maximum annual operating hours of 4,620 hours for the life of the project. Applicant will ensure that the combined emissions from the two projects will not exceed those established for the existing facility. Offsets are not required as the project's emissions (combined with the existing facility) will remain below the major source thresholds for each criteria pollutant.

The analysis of the air quality impacts of emergency permit applications is performed by the California Air Resources Board and the local air pollution control district. Energy Commission staff has proposed conditions of certification which require the applicant to limit fugitive dust emissions during construction and to comply with the authority to construct issued by the San Diego Air Pollution Control District ("Air District"). The Commission has adopted those conditions, which are included in the Staff Assessment.

The Air District has completed the 30-day review period for the authority to construct and is completing the final document. At the Informational Hearing held in Chula Vista on May 29, 2001, members of the public expressed concern about the cumulative impacts of the electrical generation facilities proposed for the southern San Diego area.

The Air District is completing the analysis of the cumulative impacts of the operation of the RAMCO facilities (both the existing facility and this project), the Wildflower Larkspur facility, the proposed CalPeak Border facility and the Otay Mesa facility. The San Diego South Bay power plant facility operated by Duke Energy was not specifically included in this analysis since, according to the Air District, the background data used in the air model includes the impacts of the South Bay operation. Air District staff indicate that, based on the modeling results, the cumulative operation of the above projects, including this project, do not result in a violation of air quality standards.

## Biological Resources

The project is located on approximately two acres of disturbed ground adjacent to the existing RAMCO facility that is presently in the last stages of construction. The site is surrounded by auto storage and recycling on the north and east, and a now-empty auto storage yard on the west. The south side of the project is occupied by the existing RAMCO facility that is bordered by the Otay River floodplain on its southern side. The empty auto storage yard to the west is being used as a laydown area for the existing facility, and will continue to be used for this purpose during construction of this project. This lot borders the Otay River floodplain on its southern boundary.

The project site is devoid of vegetation except for plant material located in the drainage swale along the western property boundary. No animal species are present on site. The site has not served as a wildlife dispersal corridor because the property has been fenced for several years. The area immediately south of the project site is a heavily

vegetated riparian habitat associated with the Otay River. The Otay Valley Regional Park Concept Plan and the City of Chula Vista Multiple Species Conservation Program Subarea Plan identify the adjacent area as “open space/preserve area.” The areas to the north, east and west are developed industrial uses.

Riparian woodland vegetation is present immediately beyond the southern fence line of the site. Indicators in this habitat include Black and Arroyo Willow, San Diego Marsh Elder, American Bulrush and Cattails. This riparian area supports a diversity of native species, including Song Sparrows, Yellow Warblers, Least Bell’s Vireos and others. Noise produced by the operation of the existing facility and the proposed project, if not mitigated, could result in adverse impacts to sensitive species occupying the riparian habitat south of the project site.

Based on comments by the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG), mitigation will be required to maintain sound levels below 60 dBA at the edge of the riparian habitat during the active nesting season (15 March to 15 September). Applicant’s existing facility, which is nearing completion, is immediately adjacent to the riparian area and separates the proposed project from the riparian area. A sound wall was constructed to maintain sound levels during construction below 60 dBA. This mitigation measure has been successful in keeping the sound below the threshold level. The sound wall will be kept in place for the construction of this project. During plant operations, sound levels will be kept below the threshold by using sound absorbing materials in the intake, double housing the generator, exhaust silencers and, if necessary, retention of the sound wall. The sound wall was erected as a temporary measure to control sound during construction, although Applicant anticipates keeping the wall as a permanent part of the facility.

A six-step mitigation and monitoring program was developed for the existing facility. That same program will be used for the construction and operation of this project. With the implementation of conditions of certification, the project will not result in any unmitigated impacts to biological resources.

#### Water Supply and Consumption; Wastewater

The estimated annual water usage for the project is 4,503,000 gallons (approximately 33-gpm of water at peak use), the bulk of which is for “fogging.” The fogging water is

injected into the turbines to cool the air intake when the outside temperature becomes too high. The fogging water is exhausted through the engine exhaust along with the other combustion products. The fogging water is demineralized and is treated by an on-site demineralizer unit, which is trailer mounted and transported off-site for regeneration.

Water is supplied by the Sweetwater Authority, a public water agency, headquartered in Chula Vista, CA. A 4-inch domestic water line and an 8-inch fire main were installed to the site from existing Sweetwater Authority water mains at Main & Albany Streets. The Sweetwater Authority has indicated its ability to provide the water requirements of the project. Applicant must submit a "will serve" letter from the water agency prior to site mobilization. See Condition SOIL&WATER-3.

The plant will generate approximately 110,000 gallons of wastewater annually. The wastewater sources can be broken down into stormwater and demineralizer discharge.

The plant will have containment areas around the electrical switchyard and the aqueous ammonia tank. These containment areas are sized to hold 150 percent of the tank volumes of the ammonia or transformer oil. The containment areas are also sized to contain 150 percent of the rainfall during a 100-year, 24-hour storm event. Stormwater collected in the containment areas will be inspected for contamination by plant personnel. If contamination is detected, the containment areas will be pumped-out by a tank truck for removal from the site and disposal at an approved off-site facility. If contaminants are not detected, the storm water will be released into an on-site containment pond. Applicant will submit a Stormwater Pollution Prevention Plan to the Commission for approval prior to operation. See Condition SOIL&WATER-1.

The trailer mounted demineralizer beds will process approximately 80,000 gallons of tap water before they need to be taken offsite and recharged. This is roughly the amount of water that the plant will use in eight (8) days at full capacity. When the demineralizer is disconnected from the facility, approximately 500 gallons of demineralized water will back-flow and empty the demineralizer. This demineralized water will be "clean" and will flow into a floor drain to the industrial sewer.

If the plant switches to a reverse osmosis membrane filtration system, there will be a change in the wastewater composition and volume. The reverse osmosis reject water has Total Dissolved Solids concentrations three (3) to four (4) times higher than the freshwater used. The change in volume from this process could be significant and may

require a change in the Industrial Users Discharge (“IUD”) permit. Applicant has acknowledged the need to amend their IUD permit if they do change processes.

Applicant has filed an IUD permit application for their existing facility, and the Cities of San Diego and Chula Vista have approved the permit for construction purposes. The permit application will be completed when the existing facility is online. This project will require a permit modification of the existing IUD permit. Prior to operation, Applicant must submit a valid permit for wastewater discharge pursuant to Condition SOIL&WATER-4.

## Land Use

The project site and the lands to the north, east, and west are designated for industrial use in the City of Chula Vista’s General Plan, and the Southwest Area Redevelopment Plan. Electrical generating plants are a conditionally allowed use. Applicant’s existing Chula Vista peaker power plant facility Conditional Use Permit (“CUP”) was approved by the City of Chula Vista Redevelopment Agency in September 2000. The project site is under lease to Pacific Gas and Electric (“PG&E”) which has sold its rights to Applicant.

Existing industrial activities are located adjacent on the north and east sides of the project site. The land adjacent to the west is vacant. The project site is located in an industrial area along Main Street in Chula Vista. The project site is currently being utilized as a laydown area for construction of Applicant’s existing facility.

Surrounding land uses include Applicant’s existing peaker plant, currently nearing completion to the south, a private access road (unpaved) and an automobile recycling yard which is located to the east of the project behind a cyclone fence approximately eight feet in height. A second auto storage yard is located north of the proposed facility. To the northwest and west of the site is a large, undeveloped lot, currently utilized for construction parking and as a laydown yard for the existing facility. A residential subdivision (approximately 30 single-family homes) is located to the west of that lot. To the south is the Otay River valley. Across the valley, approximately 1000 feet away, are additional residential properties located atop a hill overlooking the site. Residential, commercial and industrial uses are located to north of Main Street.

The proposed project is a fully enclosed gas turbine approximately 115 feet in length and 10 feet in height. Air pollution control equipment will be approximately 130 feet in length, 38 feet in width, and 35 feet in height. The exhaust stack will be 40 feet high. The main portion of the power plant will be housed in an enclosure 100 feet in width, 80 feet in length and 25 feet in height, painted in earthtones. The project is consistent with the industrial uses in the area.

The project site and surrounding lands are within the Southwest Redevelopment Area. The site and adjacent parcels to the west, north and east are zoned IL–Light Industrial. The residential properties to the west of the site are zoned R1, Single Family Residential. Residential properties along Main Street are zoned IL. The land to the south is zoned OS–Open Space, and is designated as a preserve area by the Chula Vista Multiple Species Conservation Program. A CUP was approved by the City of Chula Vista for Applicant’s existing facility in September 2000. If the City of Chula Vista were the permitting agency it would require a modification to the existing CUP, rather than a new permit. The Applicant will comply with the conditions of approval set forth in the CUP for its existing Chula Vista project at this site.

#### Visual Resources

The project site is graded and generally flat. The project includes a simple-cycle peaking facility, cooling towers, and associated facilities, including a 40-foot flue gas stack. The plant, particularly the stack, will be visible from all sides and from the residences south of Otay River. Adjacent land is zoned for industrial development, and development of the project and associated fencing and landscaping will be aesthetically compatible with future development in the area. On-site landscaping includes ground cover and drought-resistant planting.

The proposed lighting system will provide illumination for normal operating conditions and emergency situations. This may be visible at night. However, approved landscape plans call for perimeter planting of trees and shrubs, and a 10-foot opaque fence. This will partially shield lighting, as well as provide screening from a portion of the plant equipment.

The most visible feature of the project will be the flue stack. However, the stack is well within the height limit at 40 feet, and is shorter than most power plant stacks. The



earthtone paint color will render the stack less visible, particularly for the residences south of Otay River. Planned landscaping and fencing will provide additional screening.

No additional landscaping is required for the proposed project as the site will be completely screened with the extensive landscaping approved for the existing facility. The landscaping plan incorporates a mixture of vegetation around the perimeter of the facility and includes trees between 8 and 15 high when first planted.

### Hazardous Materials

Hazardous materials, which will be stored on-site during operations of the project are aqueous ammonia, lubricating and transformer oils, and engine lubricating oil. Aqueous ammonia will be stored in a 12,000-gallon steel tank within a containment basin that has a capacity of 150% of the ammonia volume. The containment basin is designed to contain the entire contents of the ammonia tank in the event of failure for any reason.

The 25 gallon drum of engine oil is stored on-site in an integral secondary containment base. The transformer oil is contained within a closed system within a secondary containment area. The engine lubricating oil is contained within a closed system connected to a fluid drainage and collection system.

### Noise

The project site is subject to existing noise from traffic on nearby Main Street and on Beyer Way, a major arterial located approximately 1,000 feet west of the proposed project site. Other noise sources include construction of Applicant's existing facility (which includes a noise monitoring program), industrial uses and scrap metal recycling. The site and adjacent parcels are also in a flight path and are subject to noise from air traffic.

The nearest sensitive receptor is residential housing, located approximately 350 feet west of the project site. Additional residential development is located north of Main Street, approximately 500 feet from the site.

South of the site is the Otay River riparian corridor, which is considered habitat to the Least Bell's vireo, an endangered bird. Additional residential properties are located

south of the river, approximately 1,000 feet from the project's south property line. These residences are at a sufficient distance to not be influenced by noise generated at the project site.

The City of Chula Vista Noise Ordinance establishes 55 dBA daytime and 45 dBA nighttime as the maximum noise level for residential properties. Noise levels at industrial property lines cannot exceed 70 dBA.

The noise-monitoring program approved by the City of Chula Vista in the Mitigated Negative Declaration for the existing facility will be utilized for the proposed project to ensure compliance. Noise attenuation includes silencers at the generator, design enabling a 90-degree elbow with sound absorbing material at the air intake, double housing on the generator, and exhaust silencers. This mitigation will reduce noise levels at all property lines to 60 dBA, which is necessary to reduce impact to the Least Bell's Vireo (See Biological Resources above).

According to a noise study conducted for the existing facility, unobstructed noise will dissipate to below 40 dBA at the nearest residence. Project plans include a 10-foot chain link and slat fence, which will provide some attenuation. Upon completion of applicant's existing facility, all four property lines will be monitored for noise. If noise levels exceed 60 dBA at the project site property line, the Applicant will erect a sound wall on the south and west property lines, to shield sensitive receptors.

The Energy Commission standard Condition of Certification NOISE-1 requires that the project owner monitor actual project noise contribution at the nearest residence. If the project noise at that location exceeds 55 dBA daytime and 45 nighttime, the project owner will be required to retrofit the project with mitigation measures that will reduce noise to this level. Such mitigation measures could include, but not be limited to, the addition of mufflers, and the addition of natural or man-made sound barriers, such as earthen berms or sound walls

With the implementation of the conditions of certification, the project will not result in a significant noise impact to anyone including nearby residents.

## Public Comment

Barbara King is affiliated with Affordable Public Power in San Diego. She posed a number of questions to applicant and the Energy Commission staff. She asked if the trees used in landscaping would be mature trees or saplings. The Applicant answered that the landscaping plan approved by the City of Chula Vista includes the planting of 24 inch box trees which usually stand from 8 to 15 feet tall when initially planted. Most of these will be planted on the northern edge of the site, facing Main Street. Saplings will also be planted. The trees and other landscaping are to soften the view of the equipment. Ms. King asked how the Energy Commission “chose” the applicants for the emergency 21-day application process. Energy Commission Project Manager Bob Eller answered that the Energy Commission did not choose applicants or appropriate power plant sites. Rather, the Energy Commission simply processed emergency process applications as they were received. Ms. King asked Mr. Eller if any applications had been disapproved. Mr. Eller answered that thus far, no application had been disapproved, although extensive mitigation has been included among the conditions for certification imposed by the Energy Commission for some projects. Ms. King asked if federal and state air quality standards had been abandoned in the emergency siting process. Mr. Eller responded that air quality standards had not been waived, except that the Governor’s emergency orders do allow the operation of new facilities without SCR during the summer and fall of 2001.

Laura Mallgren is a reporter for the “Star News.” Her first question was if the 60 dBA noise limit referred to by Applicant pertained to each turbine unit so that the combined units could not exceed 120 dBA. The applicant explained that the 60 dBA noise level restricts the combined noise emanating from the existing facility and the proposed project to the 60 dBA level. Ms. Mallgren asked how many hours the project and the existing facility will be able to run and how many tons (of NOx) they may emit together. The Applicant responded that the Air District ATC permit limits the existing facility to 15.75 hours per day and 4,620 total hours per year. During phase I when this project will operate without SCR, the two units will be limited to approximately 1100 hours of concurrent use to stay below the 50 ton NOx annual threshold for the combined facilities.

Kay Heidkamp represented Medical Mission Sisters. She asked whether the project would have to meet future air emissions standards if such standards (state or federal)

are more stringent than those that exist at the time the permit is issued. The Applicant and Energy Commission Project Manager Bob Eller responded that applicant would not have to meet more stringent standards in the future unless modifications were made to the project which brought it within the requirements of the then-existing air emissions standards. The conditions attached to the permit issued by the Energy Commission require that the project meet BACT at the time that the permit is issued. Ms. Heidkamp asked if the air emission requirements are more restrictive to the east of the project, given the prevailing westerly winds in the area. Applicant answered that the air emission requirements are the same for all areas surrounding the project.

Josie Lopez-Calderon is President of the Mexican American Business and Professional Association. She represented her own organization and 12 others who are concerned about the cumulative effect of the project along with other generation facilities already permitted or planned in the South Bay region of San Diego County. She spoke briefly and submitted a 4-page letter detailing the organizations' concerns. The chief concerns expressed in the letter were the cumulative air emissions mentioned in Ms. Lopez-Calderon's oral remarks and a related concern about the adequacy of natural gas supplies in the South Bay region, with the possible use of fuel oil by dual fuel facilities in the event of a natural gas shortage. This would increase the level of pollutants. Since the public informational hearing, the Air District has studied the cumulative effect of existing power generation facilities and those that are recently permitted or proposed, including this project. The Air District concluded that the cumulative operation of these facilities would not result in a violation of applicable air quality standards (See Air Quality above).

#### Commission Adoption Hearing

On June 11, 2001, the Commission conducted an adoption hearing to consider the Proposed Decision filed by Commissioner Laurie, recommending certification of the project. The City of Chula Vista filed comments on June 11, 2001, and participated at the hearing. Ms. Josie Lopez-Calderon, President of the Mexican American Business and Professional Association, also participated at the hearing. The City questioned the need for an expedited process for this project because, the City argued, the plant will not be completed until September 30, 2001 beyond the anticipated summer 2001 electricity crisis. The City also requested that the project comply with the Conditional Use Permit issued for the existing RAMCO project at the site. According to the City, the

proposed project does not comply with local land use LORS. If compliance cannot be established, the City contends that the Energy Commission must exercise its override authority under Public Resources Code section 25525 and find that the facility is required for public convenience and necessity. The City believes that this finding cannot be made because the project will not be completed in time to meet summer 2001 peak electricity demands.

In addition, the City raised concerns about cumulative impacts to regional air quality resulting from the siting of several power plants in the Chula Vista area, including the existing RAMCO project, the new 510 MW Otay Mesa project, the Larkspur project, the CalPeak project, and the PG&E dispersed generation projects. Ms. Lopez joined the City in expressing concern about impacts to air quality and questioned why the South Bay area of San Diego County should carry the environmental burden of all new generation in San Diego. The City contended that the Commission relaxed NOx standards to allow the project to operate without SCR until June 2002, and requested that the Applicant install SCR before the project goes online. The City also questioned the term of certification for the life of the project and proposed that certification be limited to three years.

Both the City and Ms. Lopez also raised concerns about environmental justice inequities in the surrounding community.

The Energy Commission directed Commission staff to address the City's concerns and continued the adoption hearing to June 13, 2001. Staff filed its Staff Supplemental Assessment on June 12, 2001, and presented its responses to the City's concerns at the June 13, 2001, adoption hearing. Staff determined that the project complies with all applicable LORS and no finding of public convenience and necessity is required for project approval. Staff recommended that the City's Special Use Conditions imposed on RAMCO's existing project also be included in the Conditions of Certification for this project. We agree and have incorporated those conditions by reference. See amended Condition LAND-1, which we have adopted as set forth below. Staff also recommended that the sound wall on the south side of the property be extended around the entire perimeter to buffer noise effects in all directions. We have adopted Condition NOISE-5, below, to implement this requirement.

With respect to concerns about cumulative air quality impacts, the Air District submitted a cumulative impacts analysis on June 13, 2001, which indicates that emissions from the five new simple cycle power plants plus the 510 MW Otay Mesa project will not result in an exceedance of applicable state and federal ambient air quality standards.

Regarding potential environmental justice concerns, Staff concluded that there are no unmitigated impacts associated with the proposed project and therefore there are no disproportionate impacts to minority and/or low-income populations.

The Commission declined to limit the term of certification to three years but will review the certification after conclusion of three years of operation and again after expiration of the Applicant's contract with the Cal-ISO.

#### Staff Assessment

On June 5, 2001, Energy Commission staff issued its Staff Assessment and on June 12, 2001, its Staff Supplemental Assessment, which are attached hereto and incorporated herein by reference. Staff conducted a "fatal flaw" analysis and found no areas of major concern related to the project.

All conditions contained in the Staff Assessment and the Staff Supplemental Assessment are hereby adopted as the Conditions of Certification for Chula Vista Peaker Generating Station Project.

#### Authority to Construct Permit

Analysis of the air quality impacts of emergency permit applications is performed by the California Air Resources Board and the Air District. Applicant filed an application for an Authority to Construct ("ATC") permit with the Air District on May 14, 2001, and it was deemed complete.

The ATC permit is a requirement of the U.S. Environmental Protection Agency (USEPA). The application is subject to a 30-day notice and public review and comment period, which expired on May 30, 2001. The ATC permit will become effective on the date designated by the Air District, including any modifications approved following the

comment period. All conditions and any modifications thereto contained in the ATC permit shall be incorporated herein by reference on the effective date of the ATC permit.

## TERMS OF CERTIFICATION AND PERMIT VERIFICATION

The project is a simple-cycle project that will operate during periods of high demand. Applicant requests certification for the life of the project. Construction will begin upon certification by the Energy Commission and issuance of the Authority to Construct permit by the Air District. Project construction will take approximately two to three months. The project is expected to begin commercial operation by September 30, 2001.

Applicant's existing facility has a Cal-ISO contract for summer reliability. This project will use an additional Cal-ISO contract for summer reliability transferred from another site. If, at the end of its power purchase agreement with the Cal-ISO, the project owner can verify that the project complies with the following continuation conditions the Energy Commission shall extend the certification:

Verification: At least six months prior to the expiration of its power purchase agreement with the Cal-ISO, the project owner shall provide verification that the project will meet the following criteria:

1. The project is permanently mounted on a foundation, rather than temporary or mobile in nature.
2. The project owner demonstrates site control.
3. The project is in current compliance with all Energy Commission permit conditions specified in this Decision.
4. The project is in current compliance with all conditions contained in the ATC permit from the Air District.
5. The project meets all Best Available Control Technology ("BACT") requirements under Air District rules, as established in the ATC permit, and all CARB requirements.

The certification shall expire if the project cannot meet the continuation criteria.

## FINDINGS AND CONCLUSIONS

1. There is an energy supply emergency in California.
2. All reasonable conservation, allocation, and service restriction measures may not alleviate the energy supply emergency.
3. Public Resource Code section 21080(b)(4) exempts emergency projects from the requirements of the California Environmental Quality Act.
4. Executive Order D-28-01 states that “[a]ll proposals processed pursuant to Public Resources Code section 25705 and Executive Order D-26-01 or this order [D-28-01] shall be considered emergency projects under Public Resources Code section 21080(b)(4).”
5. The Chula Vista Peaker Generating Station Project is a simple-cycle facility that will operate during periods of high demand.
6. The Application for Certification for the Chula Vista Peaker Generating Station Project has been processed pursuant to Public Resource Code section 25705 and Executive Orders D-26-01 and D-28-01.
7. Pursuant to the Executive Orders cited above, the Chula Vista Peaker Generating Station Project must be on line no later than September 30, 2001, in order to help reduce blackouts and other adverse consequences of the energy supply emergency in the state.
8. In order for the Chula Vista Peaker Generating Station Project to be on line by no later than September 30, 2001, it is necessary to substantially reduce the time available to analyze the project.
9. To the greatest extent feasible under the circumstances, the terms and conditions specified in this Decision (1) provide for construction and operation that does not threaten the public health and safety, (2) provide for reliable operation, and (3) reduce and eliminate significant adverse environmental impacts.

## APPROVAL

The Energy Commission finds that, with the mitigation identified in (1) the Application as amended, (2) the Conditions of Certification identified in the Staff Assessment and Staff Supplemental Assessment, (3) the Authority to Construct and the Authority to Operate permits, and (4) as otherwise described in the record, the proposed facility will be designed, sited, and operated in a safe and reliable manner to protect the public



interest. Therefore, the Energy Commission adopts this Decision and certifies the Chula Vista Peaker Generating Station Project as described in this proceeding.

#### Additional Conditions of Certification

**LAND-1** The project permitted under this emergency process will conform to all applicable local, state and federal land use requirements, including general plan policies, zoning regulations, local development standards, easement requirements, encroachment permits, truck and vehicle circulation plan requirements, Federal Aviation Administration approval, and the Federal Emergency Management Agency National Flood Insurance Program. The Special Use Conditions placed on the Chula Vista I project by the City of Chula Vista are incorporated herein by reference and shall apply to the Chula Vista Peaker Generating Station phase II as described herein. The project owner shall comply with the Special Use Conditions in the design, construction, and operation of this emergency project.

**Verification:** Prior to start of construction, the project owner will submit to the CPM documentation verifying compliance with the above-referenced land use requirements

**NOISE-5** To further mitigate the potential noise impacts of the project, the project owner shall extend the existing sound wall on the south side of the project site around the entire perimeter of the project. The sound wall installed in accordance with this condition shall be permanent in nature and painted to blend with the landscape.

**Verification:** Prior to the start of project operation, the owner shall notify the CPM, in writing, that the permanent sound wall has been constructed and painted.

#### Monitoring Conditions

The project owner shall comply with the following monitoring conditions in addition to the Permit Verification process contained in this Decision and in addition to the General Compliance Conditions delineated in the Staff Assessment and incorporated herein by reference:

Start of Operations: The Chula Vista Peaker Generating Station Project shall be on line by no later than September 30, 2001. If the Chula Vista Peaker Generating Station Project is not operational by September 30, 2001, the Energy

Commission will conduct a hearing to determine the cause of the delay and consider what sanctions, if any, are appropriate. If the Energy Commission finds that the project owner failed to proceed with due diligence to have the Chula Vista Peaker Generating Station Project in operation by September 30, 2001, the Applicant shall forfeit its certification.

BACT Standards: Operation of the Chula Vista Peaker Generating Station Project shall be in compliance with all Best Available Control Technology (BACT) standards imposed by the San Diego County Air Pollution Control District in its Authority to Construct permit. Failure to meet these standards will result in a finding that the Chula Vista Peaker Generating Station Project is out of compliance with the certification.

Three-Year Review: No later than 15 days after completion of the first three years in operation, the owner of the Chula Vista Peaker Generating Station Project shall submit to the Energy Commission a report of operations that includes a review of the project's compliance with the terms and conditions of certification, the number of hours in operation, and the demand for power from the facility during the three-year period.